

United States District Court

SOUTHERN

DISTRICT OF

TEXAS

MCALLEN DIVISION

UNITED STATES OF AMERICA

V.

Robert Rivera
A208 276 939
United States Citizen

YOB: 1991

United States District Court
Southern District of Texas
FILED

JUN 21 2015

CRIMINAL COMPLAINT

Case Number:

M-15-1014-M

Clerk of Court

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about June 19, 2015 in Hidalgo County, in the Southern District of Texas defendants(s) did,

(*Track Statutory Language of Offense*)

knowing or in reckless disregard of the fact Noe Francisco-Martin, citizen and national of the United Mexican States and Franklin Ruben Banegas-Arias, citizen and national of Honduras, along with six (6) other undocumented aliens, for a total of eight (8), who had entered the United States in violation of law, did knowingly transport, or move or attempts to transport said aliens in furtherance of such violation of law within the United States, that is, from a location in Mission, Texas to the point of arrest in Mission, Texas.

in violation of Title 8 United States Code, Section(s) 1324(a)(1)(A)(ii) FELONY
 I further state that I am a(n) U.S. Senior Border Patrol Agent and that this complaint is based on the following facts:

On June 19, 2015, McAllen Border Patrol Agent F. Cespedes, was conducting line watch duties in Mission, Texas. At approximately 6:00 p.m., he responded to a sensor activation near the Bentsen State Park. As he was traveling westbound on old Military Road, a gray sedan waved him down and pointed at the vehicle traveling behind them. The concerned citizen's actions led him to believe that the vehicle they were referring to was possibly involved in illegal activity. This road is also not frequently traveled by the public. Agent Cespedes immediately observed a gray Nissan Altima traveling his direction with several subjects inside it. The vehicle was also riding low. At that point, he initiated his emergency equipment to conduct an immigration stop.

SEE ATTACHED

Continued on the attached sheet and made a part of this complaint:

Yes No

Signature of Complainant

Frediberto Hernandez Senior Patrol Agent

Printed Name of Complainant

Sworn to before me and subscribed in my presence,
June 21, 2015
 Date

at McAllen, Texas
 City and State

Dorina Ramos, U. S. Magistrate Judge
 Name and Title of Judicial Officer

Dorina Ramos
 Signature of Judicial Officer

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
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CONTINUATION:

The Nissan Failed to Yield (FTY) and a pursuit ensued. The Nissan did stop at two intersections, but continued to disregard his lights and siren. During the FTY, Agent Cespedes was able to see the male driver, later identified as Roberto RIVERA. The Nissan Altima was also involved in a hit and run accident that occurred at the intersection of West Exp. 83 Frontage Road and Nicholson Street in Mission, Texas with a white GMC truck. It was later determined, that there were no reported injuries. When the Altima finally stopped north on Nicholson Street, one male subject was observed coming out of the trunk and several other subjects exited from the front of the vehicle. With the assistance of Air Support and assisting agents, they apprehended the fleeing subjects. RIVERA who had also fled from the vehicle, was also apprehended. RIVERA was placed under arrest and his Miranda Rights were read. The driver, RIVERA was determined to be a United States Citizen and the eight subjects were determined to be undocumented aliens. All subjects were then transported to the McAllen Border Patrol Station for further interview and processing.

PRINCIPAL STATEMENT:

Once at the Border Patrol Station, Robert RIVERA was advised of his Miranda Rights by Border Patrol Agents. RIVERA understood his rights and provided a sworn statement without the presence of an attorney.

RIVERA stated he was the driver of the Nissan Altima. He also knew it was illegal to transport undocumented aliens. He picked up the undocumented aliens at Schuerbach Road by a brushy area and a canal. When he arrived to pick them up, he opened the doors and trunk and told them to hurry because he didn't want to get caught. He had at least four inside the passenger section of the vehicle and a lot more in the trunk. During the pursuit, the subjects kept yelling at him to stop but he kept going because he was scared of Border Patrol. During the pursuit, he also hit the back of a truck, but he kept going. RIVERA further stated that he was going to get paid \$500 the other day when he was supposed to pick up five undocumented aliens but they were caught because he didn't pick them up.

MATERIAL WITNESSES STATEMENTS:

Once at the Border Patrol Station, both of the material witnesses were advised of their Miranda Rights. Both stated that they understood their rights and were willing to provide a statement without the presence of an attorney.

1-Noe FRANCISCO-Martin stated that he is a citizen and national of Mexico. He was going to pay approximately \$8,000 in smuggling fees once he reached Dayton, Ohio. On June 19, 2015, he was smuggled along with a group of subjects by raft across the Rio Grande River. Once in the U.S., they followed a foot guide for a long while. When they arrived to the pick-up location, a vehicle was waiting for them. The foot guide instructed three of them to get in the trunk and the rest to get in the front. He sat in the back seat. The male driver told them to stay down and not to move. They drove for a few minutes until they hear police sirens. They were telling the driver to stop, but he wouldn't. The driver also hit a vehicle and finally stopped a short time later. The driver then told them to stay in the car so he would not get caught. FRANCISCO was able to identify RIVERA from a photo lineup as the driver of the car.

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CONTINUATION:

2-Franklin Ruben BANEGAS-Arias stated that he is a citizen and national of Honduras. He made the smuggling arrangements in Honduras and paid \$4,500.00 to be smuggled into the United States. On June 19, 2015, he was smuggled by raft along with several other subjects. After crossing the Rio Grande River he was guided through the brush for approximately three to four hours. They waited in the brush and the guide gave them a description of the load vehicle, a gray sedan. When the load vehicle arrived, the foot guide ordered them to conceal themselves inside the vehicle. The driver yelled at them to hide and keep our heads away from window. He then heard a siren and the driver began to panic and began to drive all over the place. They told the driver to slow down and stop the vehicle, but the driver would not listen. He feared for his life. BENEGAS was able to identify RIVERA from a photo lineup as the driver of the car.